**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD**

**HON'BLE Mr. JUSTICE R. SUBHASH REDDY**

**Writ Petition No.30870 of 1997**

**Dated: April 4, 2007**

**Between:**

Smt. B. Lakshmikantamma, W/o. late G. Ramakrishna, Alias Ramakristappa, aged about 28 years, R/o. Yeguvapalle Village, Garladinne Mandal, Anantapur District, and others.

… Petitioners

And

The A.P. State Electricity Board, rep. by its Member Secretary, Vidyut Soudha, Somajiguda, Hyderabad, and others.

… Respondents

## Order:

Petitioners seek a Writ of Mandamus to direct the respondents to pay a sum of Rs.3,00,000/- to them towards damages and compensation on account of the death of late G. Ramakrishna (hereinafter referred as 'the deceased'), husband of Petitioner No.1, on 07-10-1997.

2. In the affidavit filed in support of the Writ Petition, it is stated that Petitioner No.1 is the wife of the deceased and Petitioner Nos.2 to 4 are his sons and mother respectively. The case of the petitioners is that on 07-10-1997 at about 8.00 A.M., the deceased was going on his bicycle with milk cans to deliver milk to his customers and at that time, he had come into contact with a live electric wire, got electrocuted, and died on the spot due to electrocution. On a complaint made by one of the passersby, a case was registered in Cr.No.179 of 1997under Section 174 of the Criminal Procedure Code in II Town Police Station, Anantapur and an inquest was held on the same day. Petitioners allege that the deceased died due to electrocution on account of negligence on the part of the respondents, who did not maintain the electric wires and poles in a good condition. It is stated that the deceased was earning Rs.4,000/- per month by selling milk and dealing in mosquito coils. The case of the petitioners is that the deceased, who was the only breadwinner of the family, died only on account of the negligence on the part of the respondents, and hence they seek compensation by way of damages.

3. Respondents have filed counter affidavit denying the allegations of the petitioners. They dispute the negligence, attributed by the petitioners, on their part. It is stated that the place where the deceased had come into contact with the service wire was not a road and it was a pavement in an open place where there were some bushes. It is further stated that the deceased did not notice the service wire, got electrocuted and died on the spot. Precisely, their case is that there was no negligence at all on their part and the electric lines were being maintained as per the

schedules; hence, they are not liable to pay any compensation to the petitioners.

4. Though learned counsel for the petitioners submits that the complaint made after the death of the deceased indicates that there was negligence on the part of the respondents, and hence, petitioners are entitled for compensation; however, in similar circumstances, the Hon'ble Supreme Court in the case of **Chairman, Grid Corporation of Orissa Ltd., Vs. Sukamani Das and another**[1], held as under:

> " The High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellant Grid Corporation. The mere facts that the wire of the electric transmission line beloning to the Grid Corporaiton had snapped and the deceased had come into contact with the same and had died was not by itself sufficient for awarding compensation. It is also required to be examined whether the wire had snapped as a result of any negligence of the Grid Corporation and under which circumstances the deceased had come into contact with the wire."

The Hon'ble Supreme Court made the aforesaid observation in the appeals filed by the Grid Corporation of Orissa Ltd., against the order of the High Court of Orissa, granting compensation to the persons who died due to electrocution.

5. The judgment of the Supreme Court referred above applies squarely to the facts and circumstances of the present case. In this

case also, petitioners have alleged negligence on the part of the respondents in keeping the electric wires in good condition, whereas respondents have disputed such allegations. Since it would not be possible for this court to take evidence for the purpose of deciding this factual dispute between the parties, no relief as sought for can be granted in this petition under Article 226 of the Constitution of India.

6. At this stage, learned counsel for the petitioners submits that at least the petitioners should be awarded *ex gratia*. However, *ex gratia* cannot be claimed as a matter of right. Though it is an unfortunate case where the deceased, who was the only breadwinner of the bereaved family, died due to electrocution, at a very young age, no positive direction can be issued straightaway to the respondent, a State-owned company, to pay compensation to the petitioners, in the absence of any application.

7. For the foregoing reasons, I do not find any valid ground to grant the relief as prayed for. However, petitioners are permitted to make an application to the respondents seeking *e x gratia* on account of the death of the deceased, within six (6) weeks from the date of receipt of this order and if any such application is received, respondents shall consider the same, pass appropriate orders and communicate it to the petitioners.

8. The Writ Petition is disposed of with the above observations. No costs.

**JUSTICE R. SUBHASH REDDY.**

April 4, 2007
**MRR**

[1] **(1999) 7 SCC 298**